

LYNCHBURG CITY COUNCIL
Agenda Item Summary

MEETING DATE: **April 9, 2002**

AGENDA ITEM NO.: 18

CONSENT:

REGULAR: **X**

CLOSED SESSION:
(Confidential)

ACTION: **X**

INFORMATION:

ITEM TITLE: **Conditional Use Permit (CUP) – Lynchburg Community Action Group – single-family dwelling**

RECOMMENDATION: Approval of the requested CUP.

SUMMARY: Lynchburg Community Action Group has petitioned for a CUP at 1118 Polk Street to allow the construction of a single-family residence in a B-5, General Business District. The Planning Division (PD) recommended approval of the CUP because:

- Petition agrees with the *General Plan*, in that single-family residences are permitted in Business Commercial Districts upon approval of a CUP by City Council.
- Petition will continue the reduced intensity of use for the parcel.
- Petition retains the predominantly residential character of the block and would be compatible with the community.

The petition was considered by the Planning Commission (PC) on March 20, at which time the PC recommended approval of the CUP, with the conditions noted below.

PRIOR ACTION(S):

March 20, 2002: Planning Division recommended approval of CUP
Planning Commission recommended approval (6-0-1) of CUP with the following condition:

The site shall be used and developed in substantial compliance with the site plan titled, "Diagrammatic Site Plan , New house at 1118 Polk Street, by AECAS Corporation, dated

FISCAL IMPACT: N/A

CONTACT(S):

Rachel Flynn/ 847-1508, ext. 253
Bill McDonald/ 847-1508, ext. 257

ATTACHMENT(S):

- Resolution
- PC Report
- PC minutes
- Vicinity Zoning Pattern
- Proposed Land Use
- Site plan
- Photographs

REVIEWED BY:

RESOLUTION

A RESOLUTION GRANTING A CONDITIONAL USE PERMIT TO LYNCHBURG COMMUNITY ACTION GROUP FOR USE OF THE PROPERTY AT 1118 POLK STREET TO CONSTRUCT A SINGLE FAMILY RESIDENCE IN A B-5, GENERAL BUSINESS DISTRICT, SUBJECT TO CERTAIN CONDITIONS.

BE IT RESOLVED BY THE COUNCIL OF THE CITY OF LYNCHBURG That the petition of Lynchburg Community Action Group for a Conditional Use Permit to construct a single family residence at 1118 Polk Street in a B-5, General Business District be, and the same is hereby, approved, subject to the following conditions:

1. The site shall be used and developed in substantial compliance with the site plan titled "Diagrammatic Site Plan, New House at 1118 Polk Street," by Aecas Corporation, dated 3/6/2002.

Adopted:

Certified:

Clerk of Council

073L

To: Planning Commission
From: Planning Division
Date: March 20, 2002
Re: **CONDITIONAL USE PERMIT (CUP): 1118 POLK STREET**

I. PETITIONER

Lynchburg Community Action Group, Inc., 926 Commerce Street, Lynchburg, VA 24504.
Representative: Thomas E. Daniel

II. LOCATION

The subject property is a tract of about ¼ acres located at 1118 Polk Street adjacent to Twelfth Street.
Property Owner: Lynchburg Community Action Group, Inc., 926 Commerce Street, Lynchburg, VA 24504.

III. PURPOSE

The purpose of this petition is to allow the construction of a single-family residence in a B-5, General Business District. A single-family residential is allowed in such a district upon approval of a CUP by City Council.

IV. SUMMARY

- Petition agrees with the *General Plan*, in that single-family residences are permitted in Business Commercial Districts upon approval of a CUP by City Council.
 - Petition will continue the reduced intensity of use for the parcel.
 - Petition retains the predominantly residential character of the block and would be compatible with the community.
 - **The Planning Division recommends approval of the CUP petition.**
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V. FINDINGS OF FACT

1. **General Plan.** The Lynchburg *General Plan* recommends a Business Commercial use for the subject property. The subject petition proposes to use the property for a more restrictive use than is typically the case for the B-5 zoning classification. The proposal will maintain the current practice of preserving existing residential areas as established by the *General Plan*.
 - **Zoning.** The existing commercial zoning was established in 1930 and has remained as such to the present. The proposed use is compatible with the existing B-5 zoning in that a single-family residence can be allowed in this district upon approval of a CUP by City Council. The petition will not change the existing zoning of the property.
2. **Board of Zoning Appeals (BZA).** No action by the BZA is necessary.
3. **Surrounding Area.** There have been no recent rezoning petitions or CUP petitions in the vicinity of the subject property.
4. **Site Description.** The site is approximately ¼ acres on which a single-family residence is located. The site is surrounded by residences, except to the to the southeast (across Twelfth Street) where it abuts an institutional use (Dunbar Middle School). The existing structure is a two-story frame structure that was built in 1880. The Planning Division has encouraged the petitioner to evaluate retaining and reusing the structure. The petitioner has stated that the structure is too deteriorated to make reuse feasible.
5. **Proposed Use of Property.** The purpose of the CUP is to allow the construction of a single-family residence. The proposed structure is basically to replace the existing structure with a similar sized residence in the same location as currently exists.

6. **Traffic & Parking.** The City Traffic Engineer had no comments of concern regarding the subject petition. The proposed use is not expected to generate a significant amount of traffic.
 7. **Storm Water Management.** The Environmental Specialist of the Robert E. Lee Soil & Water Conservation District notes that a storm water management plan will be required only if the disturbed area exceeds 1,000 square feet. Other than street drainage, the pending subdivision does propose any new disturbed areas.
 8. **Visual Impact.** The current submittal proposes the reuse of a parcel of land for residential purposes. The development will have the same visual impact as the previous residence and will be similar to existing residences in the area. There is no concern about the visual impact the proposed use will have on adjacent residential areas. The proposed residential use will not have an adverse impact on the future continued stability of the surrounding area. The proposed CUP is compatible with the surrounding land uses and zoning.
 9. **Technical Review Committee.** The Technical Review Committee (TRC) reviewed the preliminary site plan on February 19 and noted the need for a few revisions, all of which were minor in nature and will need to be addressed by the petitioner.
 10. **Conditions.** According to Section 35.1-15 (f) of the Zoning Ordinance, the Planning Commission or City Council may impose any conditions deemed necessary of appropriate in approving a CUP.
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VI. PLANNING DIVISION RECOMMENDATION

Based on the preceding Findings of Fact, the Planning Commission recommends to the City Council approval of the petition of Lynchburg Community Action Group for Conditional Use Permit at 1118 Polk Street to allow the construction of a single-family residence in a B-5, General Business District, subject to the following condition:

The site shall be used and developed in substantial compliance with the site plan titled “Diagrammatic Site Plan, New House at 1118 Polk Street,” by Aecas Corporation, dated 3/6/2002.

This matter is respectfully offered for your consideration.

William K. McDonald, AICP
Acting City Planner

pc: Mr. L. Kimball Payne, III, City Manager
Mr. Walter C. Erwin, City Attorney
Ms. Rachel O. Flynn, Director of Community Planning & Development
Mr. Bruce A. McNabb, Director of Public Works
Mr. John W. Jennings, Fire Marshal
Ms. Judith C. Wiegand, Strategic Planner
Mr. J. Lee Newland, Director of Engineering
Mr. Gerry L. Harter, Traffic Engineer
Mr. Karl Cooler, Building Commissioner
Mr. Arthur L. Tolley, Zoning Official
Mr. Robert S. Fowler, Zoning Official
Mr. Thomas E. Daniel, Petitioner/Representative

VII. ATTACHMENTS

1. Vicinity Zoning Pattern
(see attached map)
2. Vicinity Proposed Land Use
(see attached map)
3. Site Plan (Elevations and Photograph)
(see attached site plan)

MINUTES FROM THE MARCH 20, 2002 PLANNING COMMISSION MEETING

Petition of Lynchburg Community Action Group for a Conditional use Permit to allow the construction of a single-family residence at 1118 Polk Street in a B-5, General Business District.

Mr. McDonald told the Commission that a single-family residence was not allowed by right in a B-5 zoning. He said there had been a few of these in the last few years and depending on the location, the City had typically been favorable of such requests, and we were in this instance.

Mr. Thomas Daniel, Assistance Director of Lynchburg Community Action Group (LynCAG), presented the request to the Commission, and said this property was part of one of their housing programs. He said LynCAG was designated a community housing organization under HUD. He said his organization purchased this property with Lynchburg Redevelopment and Housing Authority and during that process they discovered that it was zoned B-5. He said LynCAG had been keeping watch on this property for many years because it was directly across the street from Dunbar High School and had been an eye sore for many years. He added that they were really excited about the possibilities of building a new structure at this site. He added that Ms. Rachel Flynn, Director of Community Planning and Development requested that the sugar Maple tree in the front yard be saved, which they had agreed to do.

Commissioner Pulliam asked if the rock wall would have to be built higher in order to cover the tree roots and keep them from being exposed. He said he was delighted that something was going to be done on that corner, but asked if LynCAG had given consideration to restoring the existing house instead of demolishing it and building a new structure. He added that he would rather them put their energies into saving what was already there instead of building something new.

Mr. Daniel said since the roots of the tree were exposed they would be installing landscape materials around the area to keep the roots from being damaged. He said the existing stone wall was in some disrepair and may need to be rebuilt. He explained that the architects did a study on the cost of restoring this unit, but it was so far gone that they determined that building a new structure would be the best and most cost efficient.

Brian Goldman, AECAS Corporation addressed Commissioner Pulliam's questions. He said he was on the Historic Preservation Commission (HCP), and he had great interest in preserving old homes. He said restoring the house at 1118 Polk Street was first and foremost in his mind. However, he said, the house was built on grade and would be very difficult to work under and service. He added that the porch was in disrepair, the roof had many problems, and the back addition that had been the kitchen was inadequate to continue using as it exists. Mr. Goldman said most of the house itself would have to be torn down before any restoration could begin.

Chair Dahlgren asked about the tree labeled for removal.

Mr. Goldman said he had recently spoken with Ms. Flynn, Director of Community Planning and Development, and she assured him that in talking to the City's Urban Forester he said the tree could be saved as long as soil was built up around the tree to cover the roots. He added that the wall and the steps to the sidewalk would be rebuilt. He said the height of the wall would not be increased.

Commissioner Pulliam asked about the approximate cost of restoration of the house vs. new construction.

Mr. Goldman said the estimated cost to rehabilitate the current structure was approximately \$120,000 - \$130,000, where new construction was estimated to cost approximately \$105,000 - \$110,000. He added that while the cost for rehabilitation was not that much more than new construction, those estimates were for just rebuilding the house just as it is. He said a new structure would have up to date systems with a better layout of the rooms and the rooms would also be larger than what the current house has.

Commissioner Echols asked if this project needed to be reviewed by the Historic Preservation Commission.

Mr. Goldman explained that the request had already been before the Historic Preservation Commission (HPC) and revived an adverse effect. He further explained that a project receiving an adverse effect from the HPC then had to be reviewed by the State Department of Historic Resources. He said the Department of Historic Resources had approved the project.

Commissioner Flint said this was a big improvement to this corner of Polk Street.

After further discussion, Commissioner Worthington made the following motion, which was seconded by Commissioner Wilkins and passed by the following vote:

That the Planning Commission recommend approval to the City Council for the petition of Lynchburg Community Action Group for a Conditional Use Permit to allow the construction of a single-family residence at 1118 Polk Street in a B-5, General Business District.

AYES:	Dahlgren, Echols, Flint, Wilkins, Worthington	5
NOES:	Pulliam	1
ABSTENTIONS:	Moore	1